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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,184	04/13/2004	J. Clifton Gibson	64743.003	3720

7590 01/30/2007  
James E. Bradley  
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EXAMINER
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NGUYEN, TUAN N

ART UNIT	PAPER NUMBER
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3751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/823,184

Applicant(s)

GIBSON ET AL.

Examiner

Tuan N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 32-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-36, 38-40 and 42-56 is/are rejected.
- 7) ☒ Claim(s) 37 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 38, 39, 45, 46, 48-50, 52 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Cazden (US 6,276,200).

Cazden discloses an apparatus for controlling water level in a pool, the apparatus comprising: a water level sensor adapted to be immersed in the pool; a processor electrically connected with the sensor to detect a preprogrammed low water in the pool; a wireless transmitter electrically connected with the processor for sending a digitally encoded low water signal a housing containing the processor and the transmitter; a power source for powering the processor and the transmitter; a remote receiver for receiving the signal from the transmitter and turning on a valve to add water to the pool; a wave filter timer within the processor that turns on for a selected interval when the processor detects low water; and the processor further has means (see col. 7, lines 26-28) for delaying the transmitter from sending the low water signal until the end of the selected interval and for causing the transmitter to send the low water signal at the end of the selected interval only if the processor continuously detects low water during the entire selected interval; and wherein the low water signal sent by the transmitter is a momentary signal, which will turn off after the pool is filled. The

apparatus further comprises a power input of the transmitter is connected to an output of the processor so that the transmitter is supplied with power only when the processor directs the transmitter to send the low water signal. The method as claimed would be inherent during normal use of the Cazden device, wherein the upper switch 171 of Fig. 11 is considered as a tilt switch of claim 46.

2. Claims 42, 43, 45 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Maxhimer (US 4,445,238).

Maxhimer discloses an apparatus for controlling water level in a pool, the apparatus comprising: a water level sensor adapted to be immersed in the pool; a processor electrically connected with the sensor that detects low water in the pool; a transmitter electrically connected with the processor for sending a momentary low water signal a housing inherently containing the processor, the transmitter, and a power source for powering the processor and the transmitter; a remote receiver for receiving the signal from the transmitter and turning on a valve to add water to the pool; and an overflow counter (the timer 72, see col. 5, line 48+) in the receiver that turns on for a selected interval when the receiver receives one of the low water signals from the transmitter, the overflow counter adapted to cause the valve to remain on until the overflow counter reaches a selected count to add water to the pool for a preselected time period associated with the selected count after the low water signal has terminated, and adapted to reset the overflow counter prior to reaching the selected count each time that the receiver receives subsequent low water signals from the transmitter. The apparatus further comprises a power input of the transmitter is connected to an output of the

processor so that the transmitter is supplied with power only when the processor directs the transmitter to send the low water signal.

Cazden (US 6,276,200)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 40, 53 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cazden.

Cazden discloses the replacement of the battery (see col. 4, lines 1-8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Cazden device, a low battery indicator as claimed, which is a well known feature in electronic devices that uses battery.

4. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maxhimer in view of Mogab et al.

Maxhimer discloses the power supply from an AC source; however, Mogab et al. discloses an analogous device as discussed in the previous office action that can be utilized with AC source or a battery. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Maxhimer device, a battery source as taught by Mogab et al. as an alternate equivalent power

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source. The employment of a low battery indicator as claimed, which is a well known feature in electronic devices that uses battery.

5. Claims 32-36, 47 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cazden in view of Martin et al.

Cazden discloses all of the limitation as discussed above except for a tilt switch, attention is directed to the Martin et al. reference which teaches a tilt switch for turning on/off an electronic device upon tilting the device via a toilet seat. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Cazden device, a tilt switch as taught by Martin et al. in order to provide a power switch on the Cazden device so as to avoid inadvertent electric shock.

#### ***Allowable Subject Matter***

6. Claims 37 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


#### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Tuan Nguyen  
Primary Examiner  
Art Unit 3751

TN